



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: December 6, 2006

RE: "Environmental Justice in the News" for the Week Ending December 8, 2006

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This memorandum summarizes select environmental justice news actions for the period beginning November 27, 2006 through the week ending December 8, 2006. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"Downtown Connector Again," Macon Telegraph (GA Nov. 30, 2006).** According to the article, the proposal to use part of a historically black district as part of the South Downtown Connector in Bibb County, Georgia will likely be rejected. Environmental activists had previously criticized similar plans "as pushing a major truck artery through a historically black neighborhood, home to the poor and powerless." In addition, one activist, Michael Ryan, announced that he would file an environmental justice lawsuit if the plan was further pursued.
- **"U-M Professor Puts \$100,000 Where His Heart Is; It'll Be for Environmental Justice Study," Detroit Free Press (Nov. 29, 2006) at 1.** According to the article, University of Michigan Professor Bunyan Bryant recently pledged \$100,000 to the University of Michigan ("University") over five years to support student research on environmental justice issues. Professor Bryant founded and directs the University's Environmental

Justice Initiative. He currently advises five Master's Degree students who are studying the oil spill in St. Bernard Parish due to Hurricane Katrina. Specifically, they are looking at "how environmental problems are most likely to affect people of color and people with low incomes."

- **"Ohio EPA Awards \$50,000 Environmental Education Grant to Hamilton County Organization," US States News (Nov. 29, 2006).** The article set forth a press release from the Ohio Environmental Protection Agency ("Ohio EPA") that announced that Ohio EPA had awarded a \$50,000 environmental education grant to residents of Mill Creek, Ohio. The grant was given as part of the Mill Creek Restoration Projection, which "will involve residents of two low-income environmental justice neighborhoods within the Mill Creek floodplain in Cincinnati in efforts to restore and protect the Creek. Educational opportunities will include neighborhood meetings, workshops about topics selected by the residents, as well as Mill Creek driving and walking tours."
- **"Trudging on the Toxic Tour; Most Tourists Stick to Sights in Guidebooks, But This Trip Through Hunters Point Shows Another Side of the City," San Francisco Chronicle (Nov. 28, 2006) at B1.** The article discusses a walking tour in Hunters Point, San Francisco, which the article calls the Toxic Tour, because it is "all about the pollutants and chemicals that contribute to what local public health authorities consider a neighborhood health crisis of major proportion." The Toxic Tour is "intended to show participants -- mostly school groups -- what happens when a largely poor, minority population lives on a swath of land containing 325 toxic sites." The nonprofit group, Literacy for Environmental Justice, leads the Toxic Tour. While the article asserts that "claims of environmental racism are controversial and debatable," it points to a September 2006 report from San Francisco's Department of Public Health, which found that environmental racism constitutes one factor "as partly to blame for the bleak public health picture of those living in the neighborhood." Specifically, the report attributes the prevalence of diseases like asthma to the area's hazardous environmental conditions.
- **"Key Democrat Vows Broad EPA Oversight to Enforce Current Rules," Inside EPA (Nov. 24, 2006).** According to the article, Congresswoman Hilda Solis (D-CA) intends to "conduct extensive oversight over a host of [the United States Environmental Protection Agency ("EPA")] programs as a way to pressure the Agency to step up enforcement of current rules before she considers reforming existing environmental laws." Congresswoman Solis will likely become the Chair of an important House Energy and Commerce Committee panel that will have broad environmental jurisdiction. Among the areas that Congresswoman Solis would like to address is a broad review of EPA's budget, which she noted had not been reviewed over the last six years. In particular, she noted that areas, such as environmental justice, have been

reduced from the EPA's shrinking budget. In addition, Congresswoman Solis "is also promising to raise concerns about the impact of a cap-and-trade program to control carbon dioxide ("CO2") and other climate change emissions on minority communities as part of a promised examination of environmental justice issues." Congresswoman Solis also "cited the environmental impacts Hurricane Katrina had on communities in Louisiana as an impetus for bringing environmental justice legislation to the floor. She also plans to try to 'restore the integrity' of the Agency's environment justice office and expand grants that the office used to offer."

- **"Bridgeport Wins \$200,000 EPA Grant for Environmental Job Training Program," US Fed News (Nov. 21, 2006).** The article set forth a press release from Congressman Christopher Shays (R-CT) regarding the grant of a two-year \$200,000 EPA Brownfields Grant to the City of Bridgeport and its community partner Action for Bridgeport Community Development ("ABCD"). The grant will train low-income residents for environmental jobs. Specifically, ABCD and the City of Bridgeport will provide 45 low-income students with 120 hours of training to allow them to conduct environmental work, like remediation at brownfields sites. According to article, the funds will "train residents of environmental justice communities . . . [and] provides important employment opportunities and helps ensure that we make continued progress in cleaning up Brownfields."
- **"Clinton Chairmanship May Boost Profile of Superfund, Toxics," Risk Policy Report (Nov. 21, 2006).** According to the article, Senator Hillary Rodham Clinton (D-N.Y.) was appointed chair of the Senate's Superfund and Environmental Health Subcommittee on November 16, 2006. The subcommittee has jurisdiction over various issues, including environmental justice and risk assessment. The appointment of Senator Clinton likely indicates that the profile of the subcommittee and its issues will be higher and may lead to potential changes to the Toxic Substances Control Act ("TSCA") and increased oversight of Superfund.
- **"Race-Based Discrimination May Contribute to African-American Health Disparities," Diabetes Week (Nov. 20, 2006) at 27.** According to the article, racial discrimination "may be a key factor in explaining why African-Americans have higher rates of obesity and suffer at higher rates from such diseases as diabetes and cardiovascular disorders, according to University of California, Los Angeles researchers." The article noted that discrimination may cause great amounts of stress on a person's mental and physical health and may explain why African-Americans "continue to have the highest rates of diabetes, cardiovascular heart disease, hypertension, and stroke as compared to all other racial and ethnic groups in the United States."

- **“Black Soot and Asthma,” New York Times (Nov. 19, 2006) at 13.**
According to the article, “New York has some of the worst rates of asthma in the Nation,” which negatively affect “poor and minority children trapped in environments that cause and exacerbate their condition.” The asthma is made worse for these children, because they lack regular access to health care or their homes may have mold or pests that cause breathing problems. In addition, children in the South Bronx are exposed to diesel exhaust from trucks, which represents one of the largest threats to the lungs. Accordingly, the article calls for the reduction in New York’s dependence on trucks. Instead, the article advocates the use of boats or possibly reconnecting the rail freight system.
- **“Residents Rally to Fight Landfill Expansion; Olivo Opposes, but Stavinoh Backs BFI Plans,” Houston Chronicle (Nov. 16, 2006) at 8.**
According to the article, residents in east Fort Bend County are attempting to fight a proposed landfill expansion and have formed a committee to raise funds in this effort. Allied Waste, which transacts business in Houston as BFI, is currently seeking permits to expand its 599 acre facility to include 1,345 additional acres. However, the residents and Congresswoman Dora Olivo (D-Missouri City) denounced the plan. Congresswoman Olivo even asserted that the proposed landfill proposal was an injustice, because the area is densely populated with minority residents. At a meeting to discuss the proposed plan on November 16, 2006, residents voiced their opposition as well. The residents, who were predominantly black and Hispanic, categorized BFI’s plan as “environmental racism.”

2. **Recent Litigation.**

- No noteworthy **Recent Litigation** was identified for this period.

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- No noteworthy **“Federal Congressional Bills and Matters”** were identified for this time period.
- No noteworthy **“*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*”** were identified for this time period.
- **Federal Register Notices.**

- **EPA, Chloropicrin Risk Assessments (Phase 3 of 6-Phase Process), Notice of Availability, 71 *Fed. Reg.* 69,112 (Nov. 29, 2006).** EPA announced the availability of its human health and environmental fate and effects risk assessment(s) and related documents for the fumigant chloropicrin. In soliciting public comment on these documents by January 29, 2007, EPA announced that it was developing a Reregistration Eligibility Decision (“RED”) for chloropicrin through a modified six-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to chloropicrin, compared to the general population.”
- **EPA, Final Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas, 71 *Fed. Reg.* 69, 022 (Nov. 29, 2006).** EPA announced that it was finalizing the “extension of the deferred effective date of air quality designations for 14 areas of the country that have entered into Early Action Compacts. Early Action Compact areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (“CAA”) requires.” On April 30, 2004, EPA published a rule that designated areas of the country for the 8-hour ozone National Ambient Air Quality Standards (“NAAQS”). In the rule, however, EPA deferred the effective date “of the nonattainment designation for 14 areas that had entered into Early Action Compacts until September 30, 2006.” After deferring the nonattainment designation again in August 2006, EPA will now extend the deferred effective date of the areas until April 15, 2008 for 13 Early Action Compact areas and July 1, 2007 for the Denver Early Action Compact area. EPA noted that this final rule “should not raise any environmental justice issues. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.”
- **DOI, Folsom Dam Safety and Flood Damage Reduction (“DS/FDR”) Action—Sacramento, El Dorado, and Placer Counties, CA, 71 *Fed. Reg.* 68,837 (Nov. 28, 2006).** The Bureau of Reclamation of the United States Department of the Interior (“DOI”) has made the Draft Environmental Impact Statement/Environmental Impact Report (“EIS/EIR”) for Folsom DS/FDR Action available to the public. EIS/EIR describes five action alternatives, including the no action alternative, to address different issues at Folsom Dam, including dam safety, flood

damage reduction, and security issues. Comments on the EIS/EIR are due by January 22, 2007. It will address various issues, including environmental justice.

- **DOI, Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Extension of the Absaloka Coal Mine on the Crow Indian Reservation, Big Horn County, MT, 71 Fed. Reg. 68,831 (Nov. 28, 2006).** DOI's Bureau of Indian Affairs announced that it will coordinate with, among others, Montana's Department of Environmental Quality to prepare an Environmental Impact Statement ("EIS") "for the proposed Extension of the Absaloka Coal Mine on the Crow Indian Reservation, Montana." This project intends to extend the operating life of the Absaloka Mine and "continue to provide an economic base for the Crow Tribe, while providing an energy source for the generation of electricity at distant power plants." Comments on the proposed action are due by December 14, 2006. Among other things, the EIS will address issues of environmental justice.

- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 66,944 (Nov. 17, 2005).** EPA announced the availability of its comments pursuant to the Environmental Review Process ("ERP"), as required by Section 309 of the Clean Air Act ("CAA") and Section 102(2)(c) of the National Environmental Policy Act ("NEPA"). With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the "Clean Energy Liquefied natural Gas ("LNG") Import Terminal and Natural Gas Pipeline Facilities, Construction and Operation" Project due to environmental concerns about air quality impacts, environmental justice, risk analysis, and dredged material disposal. In addition, EPA raised environmental concerns with the "Cassote Landing LNG Import and Interstate Natural Gas Transmission Facilities, Construction and Operation" Project due to environmental concerns about risk analysis, environmental justice, air quality impacts, and dredged material disposal.

B. State Congressional Bills and Matters.

- No noteworthy "*State Congressional Bills and Matters*" were identified for this time period.
- No noteworthy "*State Regulatory Alerts*" were identified for this time period.